IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.24066 of 1999

Between:

Mudiduddi Atchaiah, S/o. Garataiah, Hindu,

Aged 55 years, R/o. R.T.C. Colony,

Yeleswaram, East Godavari District.

..... PETITIONER

AND

1. Gram Panchayat, Yeleswaram, rep. by its

Executive Officer, Yeleswaram Mandal,

East Godavari District.

2. Executive Officer, Yeleswaram Gram Panchayat,

Yeleswaram Mandal, E.G. District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction, especially one in the nature of a Writ of Mandamus declaring the notice Rc.No.60/99, dated 18.10.1999 issued by the

second respondent as illegal, unconstitutional and contrary to the rules.

Counsel for the Petitioner: MR.V.L.N.G.K. MURTHY

Counsel for the Respondent Nos.1 and 2: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following:

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ORDER:

The petitioner is resident of R.T.C. Colony, Yeleswaram, East Godavari District. It appears the property admeasuring 49.336 Sq. mts. in the said village, was purchased by the petitioner's wife from one G. Surya Rao under the Registered Sale deed dated 31.01.1991. Thereafter the petitioner's wife applied for permission to Gram Panchayat on 06.04.1991. As no orders are passed, relying on the A.P. Gram Panchayat Building Rules, 1973 (the Rules, for brevity), the petitioner commenced construction. It appears that when the application was pending, the petitioner's wife died on 03.01.1995. Be that as it is, the Rules referred to herein above provide that if the Gram Panchayat fails to sanction permission or fails to pass an order of rejection, it is deemed that such permission is granted and accordingly the petitioner continued with the construction. When the impugned notice dated 18.10.1999 was issued alleging that the petitioner made construction without prior permission of Gram Panchayat and he was asked to remove the constructed portion within 24 hours, assailing the same, the present writ petition is filed.

A reading of the impugned notice dated 18.10.1999 would show that the petitioner was put on notice that he has started construction without valid permission from the Gram Panchayat and/or that the petitioner made construction in contravention of the Rules. Admittedly, the petitioner's wife made a representation on 06.04.1991 and having waited for sixty (60) days, the petitioner commenced construction. If that be so, nothing prevents the petitioner to approach the first respondent and file an explanation to the impugned notice. Liberty is given to the petitioner to file explanation within two weeks from the date of this Order. As and when the explanation is submitted, the first respondent shall consider the same and pass appropriate orders in accordance with law. Till the application is decided by the Gram Panchayat, there shall be *status quo* obtaining as on today.

The writ petition, with the above observations and directions, is disposed of. No costs.

Date : August 24, 2004. **V.V.S. RAO, J**

YS

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Executive Officer, Yeleswaram Gram Panchayat,

Yeleswaram Mandal, East Godavari District.

2. Two CCs to the Government Pleader for Panchayat Raj &

Rural Development, High Court of Andhra Pradesh,

Hyderabad (O.U.T).

3. Two CD copies.